

Wage and Hour Division, Labor

§ 501.30

debarment determination will apply only to the association, and will not be applied to any individual employer-member of the association. However, if the WHD Administrator determines that the member participated in, had knowledge of, or had reason to know of the violation, the debarment may be invoked against the complicit association member as well. An association debarred from the H-2A temporary labor certification program will not be permitted to continue to file as a joint employer with its members during the period of the debarment.

(i) *Revocation.* The WHD may recommend to the OFLC Administrator the revocation of a temporary agricultural labor certification if the WHD finds that the employer:

(1) Substantially violated a material term or condition of the approved temporary labor certification.

(2) Failed to cooperate with a DOL investigation or with a DOL official performing an investigation, inspection, or law enforcement function under 8 U.S.C. 1188, 20 CFR part 655, subpart B, or this part; or

(3) Failed to comply with one or more sanctions or remedies imposed by the WHD, or with one or more decisions or orders of the Secretary or a court order secured by the Secretary under 8 U.S.C. 1188, 20 CFR part 655, subpart B, or this part.

§ 501.21 Failure to cooperate with investigations.

(a) No person shall refuse to cooperate with any employee of the Secretary who is exercising or attempting to exercise this investigative or enforcement authority.

(b) Where an employer (or employer's agent or attorney) does not cooperate with an investigation concerning the employment of an H-2A worker, a worker in corresponding employment, or a U.S. worker who has been improperly rejected for employment or improperly laid off or displaced, WHD may make such information available to OFLC and may recommend that OFLC revoke the existing certification that is the basis for the employment of the H-2A workers giving rise to the investigation. In addition, WHD may take such action as appropriate, in-

cluding initiating proceedings for the debarment of the employer from future certification for up to 3 years, seeking an injunction, and/or assessing civil money penalties against any person who has failed to cooperate with a WHD investigation. The taking of any one action shall not bar the taking of any additional action.

§ 501.22 Civil money penalties—payment and collection.

Where a civil money penalty is assessed in a final order by the WHD Administrator, by an ALJ, or by the Administrative Review Board (ARB), the amount of the penalty must be received by the WHD Administrator within 30 days of the date of the final order. The person assessed such penalty shall remit the amount ordered to the WHD Administrator by certified check or by money order, made payable to the Wage and Hour Division, United States Department of Labor. The remittance shall be delivered or mailed to the WHD Regional Office for the area in which the violations occurred.

Subpart C—Administrative Proceedings

§ 501.30 Applicability of procedures and rules.

The procedures and rules contained herein prescribe the administrative process that will be applied with respect to a determination to assess civil money penalties, to debar, or to increase the amount of a surety bond and which may be applied to the enforcement of provisions of the work contract, or obligations under 8 U.S.C. 1188, 20 CFR part 655, subpart B, or the regulations in this part, or to the collection of monetary relief due as a result of any violation. Except with respect to the imposition of civil money penalties, debarment, or an increase in the amount of a surety bond, the Secretary may, in the Secretary's discretion, seek enforcement action in Federal court without resort to any administrative proceedings.